

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JOHN HERNANDEZ,

Petitioner,

vs.

GREG COX, et al.,

Respondents.

Case No. 3:11-CV-00563-RCJ-(VPC)

ORDER

Before the court is petitioner's motion pursuant to Rule 60(b) of the Federal Rules of Civil Procedure (#10). The court dismissed the petition for a writ of habeas corpus because petitioner was complaining about the conditions of his confinement, and a civil rights action pursuant to 42 U.S.C. § 1983 is the proper vehicle for such a complaint. Order, p. 1 (#7) (quoting Badea v. Cox, 931 F.2d 573, 574 (9th Cir. 1991)). Nothing in petitioner's motion changes the court's conclusion.

Petitioner also accuses the undersigned of a lack of impartiality. There is no basis for such a claim. The court did not dismiss this action because it was biased against petitioner. The court dismissed this action because petitioner filed it pursuant to an inapplicable statutory provision. The dismissal is without prejudice, and petitioner may commence a civil rights action pursuant to 42 U.S.C. § 1983 if he wishes to pursue his claims.

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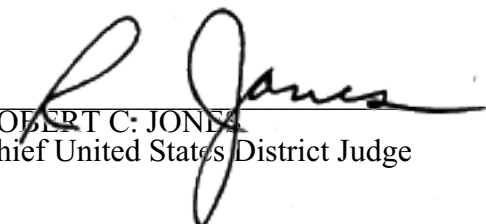
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1 IT IS THEREFORE ORDERED that petitioner's motion pursuant to rule 60(b) (#10) is
2 **DENIED.**

3 Dated: This 7th day of December, 2011.

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6 ROBERT C. JONES
7 Chief United States District Judge
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